

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

SITE JAB	§	
<i>Plaintiff,</i>	§	
	§	
V.	§	C.A. NO. 4:23-CV-3853
	§	
HISCOX INSURANCE COMPANY, INC.,	§	
<i>Defendant.</i>	§	

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**HISCOX INSURANCE COMPANY INC.'S ORIGINAL ANSWER**

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Defendant HISCOX INSURANCE COMPANY INC. (referred to as “Hiscox”) files its Original Answer to Plaintiff’s Petition filed in state court, and in support would respectfully show the following.

**I.  
ANSWER**

1. Paragraph 1 of Plaintiff’s Original Petition does not require a response from Hiscox.
2. Hiscox admits the allegation in Paragraph 2 of Plaintiff’s Original Petition.
3. Hiscox admits that it is an admitted carrier in Texas and was served with process.
4. Paragraph 4 of Plaintiff’s Original Petition does not require a response from Hiscox. But Hiscox admits that this Court has jurisdiction over the case.
5. In light of removal, Paragraph 5 of Plaintiff’s Original Petition does not require a response from Hiscox. But Hiscox admits that venue is proper.
6. Hiscox denies the allegation in Paragraph 6 of Plaintiff’s Original Petition.

7. Hiscox denies the allegations in Paragraph 7 of Plaintiff's Original Petition.

8. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 8 of Plaintiff's Original Petition.

9. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 9 of Plaintiff's Original Petition.

10. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 10 of Plaintiff's Original Petition.

11. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 11 of Plaintiff's Original Petition.

12. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 12 of Plaintiff's Original Petition.

13. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 13 of Plaintiff's Original Petition.

14. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 14 of Plaintiff's Original Petition.

15. Hiscox lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 15 of Plaintiff's Original Petition.

16. Hiscox lacks sufficient knowledge or information to form a belief about the truth of Plaintiff's statement in Paragraph 16 of Plaintiff's Original Petition, "The foregoing bad acts by Site Jab's former employees lead to Site Jab filing Claim #100.210.946." Hiscox denies the remaining allegations in Paragraph 16 of Plaintiff's Original Petition.

17. Hiscox denies the allegations in Paragraph 17 of Plaintiff's Original Petition.

18. Hiscox denies the allegations in Paragraph 18 of Plaintiff's Original Petition.

19. Hiscox denies the allegations in Paragraph 19 of Plaintiff's Original Petition.

20. Hiscox denies the allegations in Paragraph 20 of Plaintiff's Original Petition.

21. Hiscox denies the allegations in Paragraph 21 of Plaintiff's Original Petition.

22. Hiscox denies the allegations in Paragraphs 22a and 22b of Plaintiff's Original Petition.

23. Hiscox denies the allegations in Paragraph 23 of Plaintiff's Original Petition.

24. Hiscox denies the allegations in Paragraph 24 of Plaintiff's Original Petition.

25. Hiscox denies the allegations in Paragraphs 25a, 25b and 25c of Plaintiff's Original Petition.

26. Hiscox denies the allegations in Paragraph 26 of Plaintiff's Original Petition.

27. Hiscox denies the allegations in Paragraph 27 of Plaintiff's Original Petition.

28. Hiscox denies the allegations in Paragraph 28 of Plaintiff's Original Petition.

29. Hiscox denies the allegations in Paragraphs 29a, 29b, 29c, 29d, 29e, 29f, 29g and 29h of Plaintiff's Original Petition.

30. Hiscox denies the allegations in Paragraph 30 of Plaintiff's Original Petition.

31. Hiscox denies the allegations in the first and second Paragraphs labeled "31" of Plaintiff's Original Petition.

32. Hiscox denies the allegations in Paragraph 32 of Plaintiff's Original Petition.

33. Hiscox denies the allegations in Paragraph 33 of Plaintiff's Original Petition.

34. Hiscox denies the allegations in Paragraph 34 of Plaintiff's Original Petition.

35. Hiscox denies the allegations in Paragraph 35 of Plaintiff's Original Petition.

36. Hiscox denies the allegations in Paragraph 36 of Plaintiff's Original Petition.

37. Hiscox denies the allegations in Paragraph 37 of Plaintiff's Original Petition.

38. Paragraph 38 of Plaintiff's Original Petition does not require a response from Hiscox.

39. Hiscox denies the relief Plaintiff requests in the Prayer paragraph of its Original Petition.

40. Hiscox reserves the right to supplement and/or amend this Answer.

**II.**  
**AFFIRMATIVE DEFENSES**

Without waiving the foregoing Answer, Defendant pleads the following alternative, affirmative and/or specific defenses.

41. Hiscox has timely and fully settled Plaintiff's claim.

42. A bona fide dispute existed concerning liability on the applicable insurance policy.

43. Plaintiff's loss was due to a risk that falls outside of coverage under the Insuring Agreement under the applicable insurance policy.

44. Plaintiff's loss was due to a risk that falls outside of coverage under or is otherwise excluded from the Electronic Data Loss Additional Coverage in the applicable insurance policy.

45. Plaintiff's loss was due to a risk that falls outside of coverage under or is otherwise excluded from the Employee Dishonesty Coverage Extension of the applicable insurance policy.

46. In the alternative, Plaintiff's loss was due to a risk that is excluded by the applicable policy definitions of covered property, exclusions and/or conditions.

47. All applicable limits and sublimits apply to any potential recovery under the applicable insurance policy.

48. Plaintiff has not pleaded or proven that it qualifies as a consumer under

**Tex. Bus. & Comm. Code § 17.45.**

49. Hiscox reserves the right to supplement and/or amend these Affirmative Defenses.

### III. **PRAAYER**

Defendant **HISCOX INSURANCE COMPANY INC.** respectfully prays that Plaintiff take nothing, that Plaintiff's claims be dismissed with prejudice, and judgment be rendered for Hiscox. Hiscox further prays for such other and further relief, both general and special, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

*Candace A. Ourso*

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**DEFENDANT HISCOX** **I**  
**COMPANY INC.**

## OF COUNSEL:

KENNEDYS CMK, LLP

**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2023, a true and correct copy of the foregoing has been served on all known counsel of record, in accordance with the Federal Rules of Civil Procedure.

  
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CANDACE OURSO